

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

**Priscilla Sterling, Raine Becker, Shawn  
Miller, and John Bennett, individually and on  
behalf of all others similarly situated  
Plaintiffs**

v.

**Civil No. 3:22-cv-531-KHJ-MTP**

**The City of Jackson, Mississippi; Chokwe A.  
Lumumba; Tony Yarber; Kishia Powell;  
Robert Miller; Jerriot Smash; Siemens  
Corporation; Siemens Industry, Inc.; and  
Trilogy Engineering Services LLC**

**Defendants**

**MAYOR CHOKWE A. LUMUMBA AND ROBERT MILLER'S  
MOTION FOR QUALIFIED IMMUNITY AND JUDGMENT  
ON THE PLEADINGS TO DISMISS THE AMENDED CLASS ACTION  
COMPLAINT FOR INJUNCTIVE RELIEF AND MONEY DAMAGES**

Mayor Lumumba and Miller, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), files this Motion for Qualified Immunity and for Judgment on the Pleadings, seeking dismissal of Counts I, II and V of Plaintiffs' Amended Class Action Complaint for Injunctive Relief and Money Damages with Jury Trial Demand [Doc. 57]. In support of the requested relief, they state:

1. In the Amended Complaint, Plaintiffs assert two claims for relief against Mayor Lumumba and Miller: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; and (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger. *See id.* at 77-81.
2. Each claim fails to state a claim upon which relief may be granted against Mayor Lumumba and Miller.

3. Mayor Lumumba and Miller are entitled to the protection afforded by the qualified-immunity defense.

4. Plaintiffs have not alleged state-actor coercion, and therefore, no violation of bodily integrity.

5. The Fifth Circuit does not recognize a state-created-danger theory of liability.

6. Plaintiffs have also failed to state a claim for negligence (Count V) against Mayor Lumumba or Miller in his individual capacity, because both acted in the course and scope of their employment.

7. Accordingly, and for the reasons more fully set forth in his accompanying Memorandum in Support, Mayor Lumumba and Miller request dismissal of Counts I, II, and V against them.

RESPECTFULLY SUBMITTED, this the 14th day of July, 2023.

*/s/ John F. Hawkins*  
JOHN F. HAWKINS

John F. Hawkins (MSB #9556)  
HAWKINS LAW, P.C.  
226 North President Street (39201)  
Post Office Box 24627  
Jackson, MS 39225-4627  
Telephone: (601) 969-9692  
Facsimile: (601) 914-3580  
john@hgattorneys.com  
*Counsel for Mayor Chokwe A.  
Lumumba and Robert Miller*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2023, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

*/s/ John F. Hawkins*  
JOHN F. HAWKINS